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**OFFICE OF PETITIONS**

In re Application of :  
Tod C. DUVAL :  
Application No. 09/098,758 :  
Filed: June 17, 1998 :  
Attorney Docket No. 2543-28-93 :

**ON PETITION**

This is a decision on the renewed petition under 37 CFR 1.181, filed November 2, 2005, requesting withdrawal of the Notice of Abandonment mailed November 18, 2002.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed March 29, 2002, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 30, 2002.

Petitioner asserts the Notice of Abandonment mailed November 18, 2003 be withdrawn as petitioner never received either the non-final Office action mailed March 29, 2002 or the Notice of Abandonment mailed November 18, 2002.

To support this assertion petitioner has submitted: (1) a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and (2) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Accordingly, it is concluded that petitioner never received the non-final Office action mailed March 29, 2002 or the Notice of Abandonment mailed November 18, 2002.

Application No. 09/098,758

In view of the above, the holding of abandonment is hereby withdrawn, the application restored to pending status, and the non-final Office action of March 29, 2002 will be remailed and the time period for response thereto restarted.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence, the undersigned at (571) 272-3217.

The application file is being referred to Technology Center AU 1713 for appropriate action commensurate in scope with the decision herein.



Brian Hearn  
Petitions Examiner  
Office of Petitions